

Exhibit 3
2020-77588 / Court: 151

CAUSE NO. _____

ANDREA MEDRANO
Plaintiff,

v.

FIESTA MART, L.L.C.
Defendant

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§

IN THE COURT OF

JUDICIAL DISTRICT

HARRIS COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION
AND REQUEST FOR DISCLOSURES

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Plaintiff, Andrea Medrano to file this original petition, jury demand and request for disclosures against Defendant, Fiesta Mart, L.L.C., and alleges as follows:

DISCOVERY-CONTROL PLAN

1. Plaintiff intends to conduct discovery under Level 2 of Texas Rule of Civil Procedure 190.3 and affirmatively pleads that this suit is not governed by the expedited-action process in Texas Rule of Civil Procedure 160 because Plaintiff seeks monetary relief over \$100,000.

CLAIM FOR RELIEF

2. Plaintiff seeks monetary relief over \$200,000 but not more than \$1,000,000.

PARTIES

3. Plaintiff, Andrea Medrano, is a resident of Harris County and is authorized to file suit in this county.

4. Defendant, Fiesta Mart, L.L.C, is a limited liability corporation organized under the laws of the state of Texas. It may be served through its registered agent for service of process, CT

Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201, or wherever it may be found.

*******ISSUANCE OF CITATION IS REQUESTED AT THIS TIME*******

VENUE

5. Venue is proper in Harris County, Texas because all or substantially part of the events or omissions occurred in Harris County. See Tex. Civ. Prac. & Rem. Code §15.002(a)(1).

6. This Court has jurisdiction over this suit and over the Defendant because: (a) the incident and/or occurrence giving rise to this action, and the conduct, acts, and/or omission of each Defendant alleged herein, all occurred in the state of Texas; and (b) Defendant was doing business in the State of Texas.

7. The subject matter in controversy is within the jurisdictional limits of this court and Defendant is a Texas resident.

FACTS

8. On or about December 30, 2018, Plaintiff was a customer at Defendant's Fiesta Store, located at 8230 West FM 1960, Houston, Texas. While visiting that location, Plaintiff slipped and fell on a leaf, believed to be cilantro, located on the floor of Defendant's premises. As a result of this slip and fall, Plaintiff suffered injuries. The medical treatment sought by Plaintiff was reasonably and necessary for the injuries sustained.

COUNT 1-PREMISES LIABILITY

9. At all times mentioned herein, Defendant had such control over the premises that Defendant owed certain duties to Plaintiff, the breach of which proximately caused the injuries set forth herein.

10. Plaintiff entered Defendant's premises with Defendant's knowledge and for their mutual benefit. Plaintiff was a customer visiting Defendant's grocery store.

11. A condition on Defendant's premises posed an unreasonable risk of harm. A leaf, believed to be cilantro, was located on the floor in a manner that posed a hazard to customers.

12. Defendant knew or reasonably should have known of the condition of the premises.

13. Defendant had a duty to use ordinary care to ensure that the premises did not present a danger to Plaintiff. This duty includes the duty to inspect and the duty to warn or to cure. Defendant breached the duty of ordinary care by not thoroughly inspecting and observing customer areas for dangerous conditions.

COUNT 2—NEGLIGENT UNDERTAKING

14. Defendant undertook, gratuitously or for consideration, to render services to Plaintiff, which Defendant should have recognized as necessary for the protection of Plaintiff's person or things, under the Restatement (Second) of Torts §323.

15. Defendant failed to exercise reasonable care to perform this undertaking, by not properly maintaining its premises, regularly inspecting its premises and creating and enforcing policies to regularly inspect and maintain the premises, particularly the item upon which Plaintiff slipped and fell, thus increasing Plaintiff's risk of harm. Restatement (Second) of Tort §323.

16. Further Plaintiff relied upon Defendant's undertaking in a manner that exercised reasonable care, failure of which, resulted in Plaintiff suffering physical harm, under the Restatement (Second) of Torts §323. See *Colonial Sav. Assoc. v. Taylor*, 544 S.W.2d 116, 119 (Tex. 1976).

DAMAGES

17. Defendant proximately caused injury to Plaintiff which resulted in the following damages:

- a. Physical pain and suffering, in the past and future;
- b. Mental anguish, in the past and future;
- c. Physical disfigurement, in the past and future;
- d. Physical impairment, in the past and future;
- e. Diminished capacity to enjoy life and society, in the past and future;
- f. Lost wages and loss of earning capacity which will in all likelihood persist for the rest of her life; and
- g. Reasonable and necessary medical expenses, in the past and future.

REQUEST FOR DISCLOSURE

18. Pursuant to Rule 194 of the Texas Rules of Civil Procedure, Plaintiff respectfully requests that Defendant disclose, within fifty (50) days of service of this request, the information or material described in Rule 194.2.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully prays that Defendant be cited to appear and answer herein, and that upon final hearing of the cause, judgment be entered for the Plaintiff against Defendant for damages in an amount within the jurisdictional limits of the court, together with pre-judgment interest at the maximum rate allowed by law post-judgment interest at the legal rate, costs of court, and such other and further relief to which the Plaintiff may be entitled at law or in equity.

Respectfully submitted,

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Unofficial Copy Office of Marilyn Burgess District Clerk